

AMENDED IN SENATE MAY 8, 2013
AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 48

Introduced by Senator Hill

December 19, 2012

An act to add Section 740.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, Hill. Public utilities: research and development projects.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, and telephone corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law authorizes electrical corporations, gas corporations, heat corporations, and telephone corporations to voluntarily adopt certain research and development programs and authorizes the commission to allow inclusion of expenses for research and development in rates. Existing law requires the commission to consider specified guidelines in evaluating the research, development, and demonstration programs proposed by electrical corporations and gas corporations.

~~The bill would require the commission, by no later than January 1, 2016, to consolidate all review and approval of research and development projects into a single research investment planning proceeding that would be required to recur no more frequently than every 2 years. The bill would prohibit the commission from allowing~~

~~cost recovery of expenses for funding any research and development project outside the consolidated proceeding, except for the excluded projects and programs, as defined, for which a public utility applied for research and development funding prior to January 1, 2013. The bill would require the commission, when reviewing any request for authorization of expenses for research and development projects where the expenses are to be recovered from ratepayers, to place a preference on projects if the application was solicited in a manner that provides for the maximum amount of competition, unless limited and unique circumstances exist where it is not possible or desirable to maximize competition, and the proposed project encourages the use and leveraging of matching funds where possible. The bill would require that certain research and development projects first undergo peer review, as defined, that considers specified matter. The bill would require the commission, before initiating a consolidated research planning proceeding, to prepare and submit a report to the relevant policy and fiscal committees of the Legislature listing all research and development projects where the expenses of the project were or are recovered from ratepayers during the previous 5 years.~~

This bill would require that when the commission reviews a request from a public utility for authorization to incur expenses for a research and development project, as defined, where the project expenses are to be recovered from ratepayers and are in excess of \$1,500,000 per year, the commission is to administer a peer review, as defined, with certain exceptions. The bill would require that the peer review consider specified matters. The bill would require the commission, by December 31, 2014, and by December 31 of each 3rd year thereafter, to prepare and submit a report to the relevant policy and fiscal committees of the Legislature listing all research and development projects where the expenses of the project were or are recovered from ratepayers during the previous 3 years, including for each project the citations of all published papers, all oral and poster presentations given at public meetings, and all patents awarded for the funded research.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 740.5 is added to the Public Utilities
- 2 Code, to read:

740.5. (a) For purposes of this section, the following terms have the following meanings:

(1) ~~“Excluded projects and programs” means research and development or research, development, and demonstration projects and programs that are the subject of Application 12-11-009, Application 11-03-001, Application 11-03-002, Application 11-03-003, Application 12-07-001, Application 12-07-002, Application 12-07-003, Application 12-07-004, Application 11-06-006, Application 11-06-029, and Application 11-07-001.~~

(2)

(1) “Peer review” means a thorough, consistent, and objective examination based on preestablished criteria by persons who are independent of persons submitting an application, or conducting the research and development, and who are knowledgeable in the field of endeavor to which the application or research and development pertains. Peer reviewers shall be free of any financial or other interest which could significantly impair the individual’s objectivity or create an unfair competitive advantage for any person or organization.

(3)

(2) “Research and development project” includes a research, development, and demonstration project or program.

(b) ~~No later than January 1, 2016, the commission shall consolidate all review and approval of research and development projects into a single research investment planning proceeding that shall recur no more frequently than every two years. Commencing January 1, 2014, the commission shall not allow cost recovery of expenses for funding any research and development project outside the consolidated proceeding, except for the excluded projects and programs for which a public utility applied for research and development funding prior to January 1, 2013.~~

(c) ~~When reviewing any request for authorization of expenses for research and development projects where the expenses are to be recovered from ratepayers, the commission shall place a preference on projects where both of the following are true:~~

(1) ~~The application was solicited in a manner that provides for the maximum amount of competition, unless limited and unique circumstances exist where it is not possible or desirable to maximize competition.~~

1 ~~(2) The proposed project encourages the use and leveraging of~~
2 ~~matching funds where possible.~~

3 ~~(d) Unless the proposed research and development project has~~
4 ~~been selected by the public utility through an open solicitation of~~
5 ~~proposals, the commission shall not authorize expenses for a project~~
6 ~~that will be recovered from ratepayers in an amount in excess of~~
7 ~~one million five hundred thousand dollars (\$1,500,000) without~~
8 ~~the project first undergoing peer review. The peer review shall~~
9 ~~consider all of the following:~~

10 ~~(b) When reviewing any request from a public utility for~~
11 ~~authorization to incur expenses for a research and development~~
12 ~~project where the project expenses are to be recovered from~~
13 ~~ratepayers and are in excess of one million five hundred thousand~~
14 ~~dollars (\$1,500,000) per year, the commission shall administer a~~
15 ~~peer review of the proposed project before authorizing recovery~~
16 ~~of the project's expenses from ratepayers. The peer review shall~~
17 ~~consider all of the following:~~

18 ~~(1) The overall scientific or technical merits of the proposed~~
19 ~~research and development project.~~

20 ~~(1)~~

21 ~~(2) The extent to which the same or similar research,~~
22 ~~development, and demonstration work could be performed by~~
23 ~~entities that the public utility does not select.~~

24 ~~(2)~~

25 ~~(3) The appropriateness of the level of requested funding in~~
26 ~~comparison to other projects by similarly experience individuals~~
27 ~~using similar facilities performing in similar timeframes and~~
28 ~~circumstances.~~

29 ~~(3)~~

30 ~~(4) The likelihood that the proposed work can be accomplished~~
31 ~~within the proposed time and budget by the investigators or the~~
32 ~~technical staff, given their experience and expertise and available~~
33 ~~resources.~~

34 ~~(c) The commission may waive the peer review requirements in~~
35 ~~subdivision (b) for a research and development project that was~~
36 ~~selected through an open solicitation of proposals or if the project~~
37 ~~is contingent upon a peer review by a public state or federal entity.~~

38 ~~(e)~~

39 ~~(d) (1) Notwithstanding Section 10231.5 of the Government~~
40 ~~Code, before initiating a consolidated research planning~~

1 ~~proceeding, the~~ The commission shall prepare and submit a report
2 to the relevant policy and fiscal committees of the Legislature
3 listing all research and development projects where the expenses
4 of the project were or are recovered from ratepayers during the
5 previous ~~five~~ *three* years, including for each project the citations
6 of all published papers, all oral and poster presentations given at
7 public meetings, and all patents awarded for the funded research.
8 ~~For an electrical corporation, the report may be included in the~~
9 ~~report made to the Legislature pursuant to Section 910. The first~~
10 ~~report shall be submitted by December 31, 2014, and subsequent~~
11 ~~reports shall be submitted by December 31 of every third year~~
12 ~~thereafter, notwithstanding Section 10231.5 of the Government~~
13 ~~Code.~~

14 (2) A report to be submitted pursuant to paragraph (1) shall be
15 submitted in compliance with Section 9795 of the Government
16 Code.

17 ~~(f) The requirements of this section do not apply to research~~
18 ~~and development projects or programs managed by an independent~~
19 ~~contractor pursuant to subdivision (b) of Section 2851, or to those~~
20 ~~managed by the Energy Commission.~~

21 ~~(g) Except for those research and development projects exempt~~
22 ~~pursuant to subdivision (f), any research and development project~~
23 ~~for which recovery of expenses is requested pursuant to Section~~
24 ~~740, that furthers the goals of Section 740.1, or that advances the~~
25 ~~public interest consistent with subdivision (c) of Section 399, is~~
26 ~~subject to the requirements of subdivisions (b), (c), (d), and (e).~~

27 ~~(h) Nothing in this section authorizes funding of research and~~
28 ~~development projects through the rates of a gas corporation that~~
29 ~~is not in compliance with subdivision (a) of Section 890.~~